

NOV 10 2009

PTO/SB/33 (07-05)

Doc Code: AP.PRE.REQ

Approved for use through xx/xx/200x. OMB 0651-00xx
 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
 Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
Q137-US6

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]
 on _____

Signature _____

Typed or printed name _____

Application Number
10/665,687Filed
September 17, 2003First Named Inventor
David M. Skinlo et al.Art Unit
1795Examiner
Robert Hodge

Applicant requests review of the final rejection in the above-identified patent application. No amendments are being filed with this request.

This request if being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.



Signature

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
 (Form PTO/SB/96)

Travis Dodd

Typed or printed name

attorney or agent of record.

Registration number 42,491

818-833-2003

Telephone number

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. _____

11/10/2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below*.

*Total of _____ forms are submitted.

This collection of information is required by 37 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



PATENT
Docket No. Q137-US6

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

David M. Skinlo et al.

Serial No: 10/665,687

Filed: September 17, 2003

For: ELECTRIC STORAGE BATTERY
CONSTRUCTION AND METHOD OF
MANUFACTURE

Art Unit: 1795

Examiner: Hodge, Robert W.

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pre-Appeal Brief Request for Review

This communication is submitted in response to the Final Office Action mailed on July 10, 2009 (the Office Action). The Examiner rejected pending claims 43-45, and 67-87 as being unpatentable over U.S. Patent No. 5,501,916 (Teramoto) in view of U.S. Patent No. 6,399,242 (Kitoh) and U.S. Patent No. 3,159,508 (Chreitzberg).

To support the pending rejection, the Office Action relies on Teramoto's Figure 9 as described in example 2. The Office Action then argues that "it would have been obvious to one of ordinary skill in the art to use flexible conductive tabs to electrically attach the negative electrode to the second battery lid such that the tab is only immobilized at a second location past the center point from the first location of the cap in the battery of Teramoto, et al., as taught by Kitoh et al. and Chreitzberg." However, the proposed modification of Teramoto's Figure 9 results in a shorted battery.

In order to see the shorted battery that results from the proposed modification, note that Teramoto's positive electrode is already in electrical communication with the battery winding core 48 (C8, L47-50). This winding core is also in electrical communication with both lids 47 (See Figure 9 and note use of insulator 46 between lid and case). As a result, electrically attaching the negative electrode to either of the lids 47 as suggested in the Office Action would result in both the positive and negative electrode being in electrical communication with one of the lids and would accordingly result in a shorted battery.

A modification that would result in a shorted battery is not an obvious modification to make. Further, since “**the proposed modification cannot render the prior art unsatisfactory for its intended purpose**” (heading of MPEP 2143.01) and a shorted battery is clearly unsatisfactory for its intended purpose, claim 43 is patentable over the cited art.

Rejection of claims 44-45, and 67-87

Claims 44-45, and 67-87 each depends directly or indirectly from independent claim 43. Since claim 43 is believed to be in condition for allowance, these claims are also believed to be in condition for allowance.

Respectfully submitted



TRAVIS DODD
Reg. No. 42,491
Agent for Applicant(s)

Quallion LLC
P.O. Box 923127
Sylmar, CA 91392-3127
818-833-2003 ph
818-833-2065 fax
travisd@quallion.com